

Committee For Purchase From People Who Are Blind or Severely Disabled Hearing
Dallas, TX
January 19, 2006

Thank you for this opportunity to comment on the Committee's proposed rules regarding non-profit agency governance and executive compensation. I am Jerry Bettenhausen, CEO of Work Services Corporation (WSC), a community rehabilitation program based in Wichita Falls, TX, which participates in the JWOD Program. WSC currently employs 592 people with disabilities in JWOD projects.

With regard to non-profit governance, I note that the Committee lists 14 best practices for NPAs. I am pleased to report to you that WSC has written policies which address all 14 best practices. I would, however, like to elaborate on Best Practice 4, which states "the organization bylaws should set forth term limits for service of board members." WSC Bylaws, Article IV, Section 6, states "a. Board Members will serve a three-year term; b. Board Members may be reappointed on completion of their term." In accordance with provision "b", Board members who are committed to the organization mission, who have a desire to continue to serve, and who actively provide oversight and guidance to the organization are routinely reappointed as Board Members. Although new directors are recruited and appointed as vacancies occur (we generally have vacancies every 1-2 years), other directors have served as many as five consecutive terms. The counsel, guidance, experience, and pro-bono professional services provided by these long-term directors is invaluable. Additionally, recruitment of new directors has become increasingly difficult. Prospective directors are unable or unwilling to make the investment of time and effort, or are uncomfortable with the fiduciary responsibilities of board membership. Also, in our community (and I suspect in other communities throughout the United States) a zeal for public service is not as widespread as it has been in the past. To guard against impropriety, the WSC Board has published a Code of Conduct which lists duties and responsibilities of Board Members, addresses conflict of interest and disclosure, makes provisions for recusal/sanctions/ removal for cause, and addresses integrity, objectivity, and gratuities. The Board has published policies on records retention and whistleblower. The Board Audit Committee engages the independent auditor, receives the management letter, and presents the audit report to the full board for approval. I believe that the WSC Board has implemented measures to prevent director misconduct regardless of tenure. For reasons listed above, I oppose any rule which would prevent board members from serving consecutive terms.

I have several comments on executive compensation. First, I have never considered executive compensation as a factor in contract pricing or fair market price. We use PR-3 as a market-based, price analysis process in determining contract pricing. Concurrently and independently, the contracting activity develops the government estimate of cost. Ultimately, both parties agree to a fair and reasonable contract price. Executive compensation is not a consideration. Second, I am aware of recent media coverage which questions the propriety of executive compensation for several JWOD affiliates. I do not believe that the alleged excesses reported in these articles represent our community in general, and we should not overreact to a few sensational media articles. I believe that a

recent NISH survey of IRS Forms 990 for producing CRPs, confirms that the mean, median, and mode of executive compensation for these CRPs, is at or below the national average for NPA executive compensation as reported by the Senate HELP Committee on October 20, 2005. I think we need to provide this kind of verifiable data to the Congress and to other stakeholders which demonstrate that media reports of executive extravagance are rare exceptions for JWOD producing CRPs. Third, the relationship between executive and line worker compensation can be exaggerated, especially with respect to line workers who are paid a sub-minimum wage. The WSC workforce of 800 includes 23 employees who are paid a sub-minimum wage. These employees are paid based on their individual productivity in accordance with Department of Labor rules. Despite the sub-minimum wage, the department where these employees work does not produce revenues to cover expenses, and it is highly subsidized. WSC accepts this expense to provide training and employment for our employees with the most severe disabilities because we believe this is consistent with our mission. My conversations with colleagues indicates that this is the norm for JWOD producing CRPs. An out-of-context comparison of executive compensation and sub-minimum wage employees can be extremely misleading. For those employees who are at or above minimum wage, The Department of Labor Bureau of Labor Statistics publishes wage data by job classification for SMSAs throughout the United States. This would be a good benchmark for those line workers who are paid minimum wage or higher.

In conclusion, WSC applauds the Committee's efforts to maintain credibility and protect the JWOD Program. We are concerned, however, that monitoring compliance with the proposed rules would divert resources from our primary job training and job creating goals. All of our energies and resources should be directed at these primary activities. Monitoring for the proposed rules would require additional staff and support, as neither the Committee nor the CNAs are currently staffed to monitor over 600 participating CRPs. Further, monitoring non-profit agency governance and executive compensation duplicates the responsibility of another federal agency, the Internal Revenue Service (IRS). The IRS has the authority to investigate complaints, conduct audits, impose intermediate sanctions, and withdraw non-profit status. IRS regulates the compensation that may be paid to non-profit agency executives. Accordingly, we recommend that the Committee work cooperatively and collaboratively with the IRS, rather than establish a duplicate monitoring system. If the Committee is concerned about the fiscal management of a few, isolated agencies, it may simply report those agencies to the IRS. Additionally, we believe that the Senate Finance Committee and the Congress will soon establish Sarbanes-Oxley type rules and guidelines for non-profit organizations. WSC recommends that the Committee work in concert with the appropriate Congressional Committees and the IRS to draft legislation and develop regulations which apply to all non-profit organizations.

Once again, thank you for this opportunity to comment on the proposed rulemaking.